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In re Application of  
RUSHBROOKE, John Gordon et al.  
Application No.: 09/914,803  
PCT No.: PCT/GB00/00212  
Int. Filing Date: 25 January 2000  
Priority Date: 16 March 1999  
Attorney's Docket No.: 602-1539  
For: SAMPLE IMAGING

DECISION  
ON REQUEST UNDER  
37 CFR 1.43

This communication is in response to applicants' "Supplementation to Response to Notification of a Defective Response," submitted via facsimile to the United States Patent and Trademark Office on 27 April 2002. This has been treated as a request for status under 37 CFR 1.43.

### **BACKGROUND**

On 25 January 2000, applicants filed international application PCT/GB00/00212, which claimed a priority date of 16 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000.

On 29 August 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 23 October 2001, the Office mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office," (Form PCT/DO/EO/905) noting, *inter alia*, that an oath or declaration of the inventors complying with 37 CFR 1.497(a)-(b) was required.

On 31 December 2001, applicants filed a declaration executed by Claire E. Hooper, who signed on behalf of herself and John Gordon Rushbrooke, to execute the declaration.

On 03 April 2002, the Office mailed a Notification of a Defective Response indicating that the declaration did not comply with 37 CFR 1.497(a)-(b).

On 12 April 2002, applicants submitted "Initial Response to Notification of a Defective Response," indicating that Dr. Rushbrooke is legally incapacitated.

On 27 April 2002, applicants submitted the instant response accompanied by *inter alia* a declaration executed by Claire E. Hooper on behalf of herself and on behalf of John Gordon Rushbrooke as legal representative.

DISCUSSION

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 12 April 2002 submission indicates that Dr. Rushbrooke is legally incapacitated. Under 37 CFR 1.43, in the event of legal incapacitation of an inventor, "the legal representative ... of such inventor may make the necessary oath or declaration, and apply for and obtain the patent." The 27 April 2002 declaration identifies Claire E. Hooper as the Legal Representative and provides her residence, citizenship and address in addition to Dr. Rushbrooke's residence, citizenship and address. The 27 April 2002 declaration complies with 37 CFR 1.497(a)-(b).

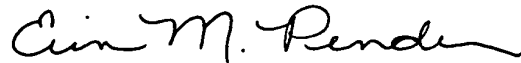
CONCLUSION

Applicants' request for status under 37 CFR 1.43 is GRANTED.

The application has an international filing date of 25 January 2000 under 35 U.S.C. §363 and a date of 27 April 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.



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